GT GreenbergTraurig

Memorandum

TO: Miami-Dade County

FROM: Greenberg Traurig

DATE: January 31, 2024

RE: January 2024 Monthly Report

Below please find a summary of Greenberg Traurig's efforts on behalf of Miami-Dade County and the latest news stories and updates in Washington from the month of January. If you have any questions, or if we can be of any further assistance, please let us know.

Overview

Throughout the month of January, GT has kept Miami-Dade County staff up-to-date on the latest breaking news and developments in Washington with an on the ground presence in the nation's capital. GT has also helped County staff navigate the Congressional Budget and Appropriations process. Our team continues to work with the Delegation and Congressional leadership to advocate for funding and support for programs that are important to the County. GT's efforts on behalf of the County have focused on issues such as Appropriations/Budget, Public Safety, Economic Development, Equity, Justice, WRDA, Housing, Broadband/5G, Immigration, Infrastructure, and Transportation issues among many others.

Our team features former Congressional and White House staff whose strong connections in Washington can enable Miami-Dade County staff to maximize their opportunities to discuss specific high-level priorities with the top decision-makers in the Federal government. Through these connections, GT has also provided County staff with relevant "Dear Colleague" letters, draft versions of legislation, legislative analysis, Congressional Agenda outlines and other insights not available through public means. GT continued to cultivate these relationships in the Federal government this month and maintains an open dialogue with Members of the Florida delegation, Congressional leadership, and key contacts within the Administration.

Budget & Appropriations

House Republicans are vowing that they will fight for policy wins in the final fiscal 2024 appropriations bills, which could complicate the process despite a recent deal on subcommittee spending targets intended to pave the way for swift action. Senior House Republican appropriators met with Speaker Mike Johnson, R-La., following the January 27th agreement on allocations between House Appropriations Chairwoman Kay Granger, R-Texas, and Senate Appropriations Chair Patty Murray, D-Wash.

That deal gives appropriators five weeks to wrap up the process before March 1, the first of two deadlines set in the most recent stopgap spending law (PL 118-35). Spending for four of the 12 annual appropriations bills will expire that day, while the remaining eight bills expire the next week, March 8. Exactly how the appropriators distributed the $1.66 trillion in fiscal 2024 spending Senate Majority Leader Charles E. Schumer, D-N.Y., and Speaker Mike Johnson, R-La., agreed to is not yet clear. Schumer and Johnson announced their agreement, which features $886.3 billion for defense and $772.7 billion for non-defense programs, January 7. Murray and Granger had hit a snag over how to distribute the nondefense dollars, with Republicans wanting more of that money to go to the Department of Homeland Security and Democrats seeking to instead fund other nondefense priorities. The domestic and foreign aid portion of the deal features $703.7 billion in "base" funding — what gets divvied up into 302(b) allocations in both chambers' initial versions of the bills — plus $69 billion financed through a mixture of methods like emergency spending and rescissions of unspent funds. The deal between Murray and Granger will allow Appropriations subcommittee staff to start distributing funding in their bills among agencies' individual programs and accounts. Any issues that cannot be worked out at the subcommittee level will be discussed among full committee leadership.

Although appropriators should have time to work through final bills by March, significant potential hurdles remain, the most threatening being a lack of agreement on policy riders. Johnson has vowed House Republicans would fight for policy wins in the appropriations process, while Democrats say they will not accept any new riders. Top appropriators and congressional leaders still need to figure out what to with President Joe Biden's $100 billion-plus request for supplemental war-related and border management funds. While a Senate agreement on packaging new spending with immigration policy changes may be near, Johnson has vowed not to put it on the floor in his chamber unless certain conditions are met — that thus far, Democrats and the White House have shown no interest in.

Speaker Johnson ideally wants the 12 bills to move individually, Labor-HHS-Education Appropriations Chairman Robert B. Aderholt, R-Ala., said and Republicans definitely want to do more than two packages of bills. “I think the goal is to break up the bills in as many smaller packages as possible,” he said. However, it appears unlikely that House Republicans will be able to adopt the rules needed to get spending bills on the floor in the face of opposition from members of the conference’s right flank. Financial Services Appropriations Subcommittee Chairman Steve Womack, R-Ark., said lawmakers will likely have to construct appropriations packages that can pass under the suspension of the rules, which has a higher two-thirds requirement for passage. “How can you construct these bills in such a way you can get 290 votes? And that’s a challenge for us,” he said. “We may be able to come to agreement on numbers, and then we’re going to get bogged down in discussion on policy riders, those kinds of things.” Womack said Johnson will be challenged “in a remarkable way” in navigating the rest of the process.

Healthcare

Legislative language to restrict hospital billing rates in outpatient clinics continues to divide lawmakers as they try to coalesce around a broader health care package, with concerns about rural hospitals stalling progress in the Senate. The language is aimed at preventing hospitals from buying up independent physician practices and then billing for the same services at a higher rate. Critics allege the practice unnecessarily increases costs, while hospitals argue their own costs are higher. Some so-called “site-neutral” policies are included in every major piece of health care legislation moving through the committees of jurisdiction, with the exception of legislation from the Senate Finance Committee. Finance Chair Ron Wyden, D-Ore., said he’s still working to understand how the policy would impact rural hospitals. "I'm not sure anybody has answered those questions," he said.

Time is running out if lawmakers want to attach a health care package to a spending bill. Short-term government funding (PL 118-35) will expire on March 1 and March 8. Both Wyden and Senate Finance ranking member Michael D. Crapo, R-Idaho, expressed their support for the policy during a markup in November, when Sen. Maggie Hassan, D-N.H., offered — but withdrew — a site-neutral bill (S 1869) she co-sponsors with Sen. Mike Braun, R-Ind., as an amendment to the committee's mental health and pharmacy benefit manager bill (S 3430). "There's credible evidence of this issue, and it leads to higher costs and you don't get better outcomes so you get kind of a double whammy," Wyden said. "This is one of those issues I mentioned earlier that we need to get done," Crapo added.

Senate Health, Education, Labor and Pensions Chairman Bernie Sanders, I-Vt., supports site-neutral policies. Sanders negotiated a bill (S 2840) with Sen. Roger Marshall, R-Kan., that would ban facility fees for telehealth and primary care visits and require off-campus hospital departments to use a separate billing number. HELP Committee ranking member Bill Cassidy, R-La., also confirmed that he is working on site-neutral policies of his own, potentially adding another layer of complexity to negotiations around the broader health care package. One of the allures of site-neutral policies is its promise as a way to pay for other priorities, including a delay to cuts that are slated to take effect for hospitals that serve large numbers of Medicaid patients. The Congressional Budget Office and Joint Committee on Taxation estimate that requiring site neutrality for outpatient drug administration services and changes to billing requirements would save $4.2 billion between 2024 and 2033.

But on the House side, Ways and Means ranking member Richard E. Neal, D-Mass., is actively working to pull the language from negotiations. Neal and nearly all of the committee Democrats voted against a broader price transparency bill (HR 5378) that included language requiring site-neutral payments for drug administration services in outpatient settings in December when the bill passed the House. "It harms hospitals unduly," said Rep. Mike Thompson, D-Calif. "Hospitals in my district, and I can't imagine it's any different in anybody else's district." But some Democrats pointed to the bill's lack of language addressing transparency in both Medicare Advantage pricing and private equity ownership of providers as the larger reason for opposing the bill. "We were really concerned that it was supposed to be about transparency," said Judy Chu, D-Calif. "But it didn't really address private equity, Medicare Advantage."

Tax Package

The House on January 31, passed a $79 billion family and business tax break bill after several days of uncertainty, teeing it up for consideration in the Senate. The package (HR 7024) negotiated by House Ways and Means Chairman Jason Smith, R-Mo., and Senate Finance Chair Ron Wyden, D-Ore., easily mustered the two-thirds majority needed to pass, despite GOP drama earlier in the week and previous criticism from Democrats. "It's a strong, commonsense, bipartisan step forward in providing urgent tax relief for working families and small businesses," Smith said on the floor ahead of the 357-70 vote. "Parents in Main Street communities across this country will see lower taxes, more opportunity and greater financial security after we pass this legislation." The bill would devote about $33 billion to reviving a trio of business tax breaks and roughly the same amount to expand the child tax credit, with the most significant gains going to low-income families with more than one kid. The legislation would also boost the low-income housing tax credit, end double taxation of U.S. companies operating in Taiwan and provide tax relief to victims of natural disasters. The cost would be offset by ending the processing of employee retention credit claims early. The pandemic-era tax break has been rife with fraud, prompting the IRS to pause processing claims last year to sort through $2.8 billion worth of potentially fraudulent claims. In a statement after the House vote, Wyden said he'd work with Senate Majority Leader Charles E. Schumer, D-N.Y., and other senators "to get this done as soon as possible."

Internal divisions within the Republican Party came to a head when a group of New Yorkers threatened to block an unrelated rule on the floor. The move prompted a flurry of closed-door meetings between House leadership, the Ways and Means Committee, blue-state Republicans and members of the House Freedom Caucus, who had separate issues with the package related to immigration. In the end, the House moved forward with the Wyden-Smith deal without making changes. But House leadership is working with blue-state Republicans to bring to the floor a stand-alone SALT relief bill to raise the $10,000 deductions cap for married couples. The current plan is to bring to the floor a newly-introduced bill from several New York Republicans and a few others to double the cap for joint filers to $20,000, but only for households earning up to $500,000 — and only for the 2023 tax year.

The House Rules Committee plans to meet to consider the measure (HR 7160), which is expected on the floor next month. Rep. Andrew Garbarino, one of the New York Republicans involved in the talks, said earlier that negotiators received scores from the Joint Committee on Taxation outlining the cost of four to five options that would raise the cap for married couples to different levels, with some scenarios also imposing income limits. Negotiators had discussed the possibility of backing a clean SALT relief bill or a bill that combines lifting the cap on deductions with conservative policy demands, Garbarino said. Three GOP lawmakers on the Rules panel — Chip Roy of Texas, Ralph Norman of South Carolina and Thomas Massie of Kentucky — could potentially make trouble for leadership by bottling up legislation in committee. Or, allowing sufficient debate and amendments could smooth a path for the bill, including the potential for changes to the SALT bill favored by conservatives.

The stand-alone bill would only require a simple majority for passage if the rule is adopted on the floor. But getting that measure through the Senate and that chamber's 60-vote threshold would be a tall order, given Senate Republicans' reluctance to lift the SALT cap and potential Democratic opposition if conservative policies are added. Rep. Mike Garcia, R-Calif., a co-sponsor of the SALT bill, was not sanguine about the measure's prospects. “I don't know if that thing dies in the womb, dies in the cradle or dies on the floor or dies in the Senate," he said. "So we’ll see."

IRA Clean Energy Credits

On January 12, the Internal Revenue Service (IRS) announced office hour opportunities to assist entities (including county governments) with the pre-filing registration process for elective payment of clean energy credits. In order to leverage elective payment of credits made available through the Inflation Reduction Act, counties must complete this pre-filing registration process.

Established under the Inflation Reduction Act, the elective pay mechanism for clean energy credits provides a new pathway for county governments to access certain clean energy tax incentives that have previously only been available to taxpayers. As such, counties are eligible to receive a payment directly from the federal government equal to the full value of several clean energy tax credits. A full list of eligible credits and additional information on this process can be found here.

Non-Governmental Partners and Coalitions

Throughout January, GT continued to work with organizations like NACo, the Large Urban County Caucus, the National League of Cities, and the United States Conference of Mayors to push for additional state/local aid that would benefit Miami-Dade County and their residents.

GT staff have attended many meetings and been on regular calls with the organizations mentioned above and others this month on the County's behalf. Partnering with these and other organization allows Miami-Dade County officials the opportunity to amplify their voices and help attain County policy priorities at the federal level.

Media Updates

GT continues to send daily media updates on legislative and political issues to the County in order to ensure that the Commission and staff remain up-to-date on developments within the Beltway. We conduct careful daily monitoring of the federal legislative calendar, executive orders, and other policy directives from the White House, action by the federal regulatory agencies, and key decisions issued by the federal courts. We will continue to monitor the issues most relevant to the County and provide timely and accurate information in order to make certain that the County is aware of any developments which may provide an opportunity to accomplish established goals.